

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

FILED**UNITED STATES DISTRICT COURT****DEC 26 2023**

for the

Mark C. McCartt, Clerk
U.S. DISTRICT COURT

District of _____

Division _____

Case No.

23 CV - 559 CVE - SH

(to be filled in by the Clerk's Office)

Marquice D. Savage

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

*Vic Regalado
adams
smith
miller*

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Prisoner Complaint)**NOTICE**

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

☒ Mail ☐ No Cert Svc ☐ No Orig Sign☐ C/J ☐ C/MJ ☐ C/Ret'd ☐ No Env☐ No Cpys ☒ No Env/Cpys ☐ O/J ☐ O/MJ*fees due
summons*

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

All other names by which
you have been known:

ID Number

Current Institution

Address

Marquice Donnell Savage
none
1003816
David L. Moss Tulsa County Jail
300 N. Denver Ave
Tulsa OK 74103
City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Job or Title (*if known*)

Shield Number

Employer

Address

Vic Regalado
Sheriff of Tulsa County
unknown
Tulsa County Sheriffs Office
303 W. 1st
Tulsa OK 74103
City State Zip Code
☒ Individual capacity ☒ Official capacity

Defendant No. 2

Name

Job or Title (*if known*)

Shield Number

Employer

Address

adams
detention officer
unknown
Tulsa County Sheriffs Office
303 W. 1st
Tulsa OK 74103
City State Zip Code
☒ Individual capacity ☐ Official capacity

Defendant No. 3

Name

Job or Title (if known)

Shield Number

Employer

Address

Smith
Detention officer
unknown
Tulsa County Sheriffs Office
303 W. 1st
Tulsa
City
OK
State
74103
Zip Code
☒ Individual capacity ☐ Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

Miller
Detention officer
unknown
Tulsa County Sheriffs Office
303 W. 1st
Tulsa
City
OK
State
74103
Zip Code
☒ Individual capacity ☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Federal Law Title 42 U.S.C. 1986
14th amendment
1st amendment
Federal Law title 42 U.S.C 1981(A)(C)
Federal Law title 42 U.S.C. 1985 (2) and (3)

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

None

Pg. 1
Pg. 4 of 11 Section D

On 11/14/23 I put in a sick call request to see the nurse. On 11/16/23 at approx 9 am I was called to the Medical department to see a nurse in order to have my pain pill prescription refilled and to be assessed, so I left my unit 57 and headed to medical. Upon arrival, I spoke with the nurse and the nurse practitioner "Andrew". A Detention officer named Ms. King attempted to Deny access to health care by stating that the nurse practitioner was "too busy" and didn't have time to answer any questions that I had. I explained that I had questions concerning my healthcare. Detention officer Ms. King Denied access so I signed a form that the nurse had given me to pay for services and headed back to my unit 57. Upon arrival, I encountered Detention officer Adams, Smith, and Detention officer Miller. D/O Adams claimed that I was written up and locked down by D/O Ms. King for hindering. This accusation is false. I did not receive a disciplinary write up concerning this. I respectfully asked to speak to a supervisor. Detention officer Adams then asked me to be placed in handcuffs first, so I complied. Instead of taking me to speak to a supervisor, officer Adams, officer Smith, and officer Miller

escorted me to my cell u. upon Arrival, Detention officer adams asked me to get on my knees inside my cell. I complied. She then asked me to lean forward. I explained that I could not lean forward because I had a stomach injury that limits my ability and that I am ordered by the nurse practitioner to take breathing treatments as needed. Detention officer adams neglected listening. She pushed me forward on to my bed then officer adams climbed on top of my bed then put her knee into the middle of my back. She then grabbed my arm and started pulling my arm and pushing her knee into the middle of my back as hard as she could hurting my arms, wrists, back and cutting off my air supply. at this point "I could not breathe" so I yelled! I can't breathe!! officer adams neglected and continued using excessive force. so I began to panic. then officer Miller and Detention officer Smith grabbed my legs, crossed them, and pushed my legs and heels all the way up to my elbows using "excessive force" in violation of state law! (Okla. Stat. tit. 22 Sec. 34.1 (B) and (A)) This excessive force used against me

Pg. 3

by Detention officer Adams, Smith, and Miller was done maliciously and sadistically to cause harm and injury. These officers caused unnecessary and wanton infliction of pain and injury. These officers performed these acts all from "the order of Mr. Vic Regalado The Sheriff of Tulsa County." Their actions were not done in a good faith effort to restore discipline. It was unnecessary because I was handcuffed and had complied with the Detention officer Adams and got down on my knees inside my cell. At this point, I am not a security threat to any officer or anyone else in the facility so their actions were "unnecessary". These officers have used excessive force against me depriving me of my "14th amendment constitutional right" to be free from the use of excessive force. Prior to this incident, I was ordered by the nurse practitioner here in the jail to take breathing treatments as needed because of a prior surgery to my lungs and stomach. Prior to this incident, I was also taking psych meds for panic attacks and pain meds because I have a "broken left ankle" that has hardware inside that holds the bones in my left ankle together. These

Detention officers wouldn't listen to me when I yelled that I could not breathe! and that I had a broken left ankle! they all neglected and kept using excessive force! These officers performed these acts with a culpable state of mind. please see video of the incident which shows these officers "deliberate indifference" to my "Serious injuries" These officers have caused more injuries to my left ankle, arms, and wrists. On 11/18/23 I put in another request to see the nurse for my injuries. On 11/23/23 I finally saw a nurse. On 11/29/23 I filed a grievance. On 11/30/23 my meds were finally increased because of the additional injuries these officers caused. On 11/16/23 I was taken down to Detention and placed in Detention for 14 days. The conduct of the Sheriff and detention officers was "malicious intentional intimidation and harassment" because these acts were performed against me simply because I am black African American in violation of State Law; (Okla. Stat. tit. 21 Sec. 950(A)(1)) The Sheriff Mr. Vic Regalado conspired with his officers to perform these acts in violation of State Law; (Okla. Stat. tit. 21 Sec. 421(A)(1)) and (Okla. Stat. tit. 21 Sec. 641) this is the "second time" that Detention officers have used excessive force against me by the order of the

Sheriff, the Sheriff and all other listed officers are of the white race. African Americans are "known" for being mostly Discriminated against simply because of their race and color by white americans. approx. 6 months prior to this incident with these detention officers I started taking psych meds for "Anxiety and panic attacks". This incident happened on 11/16/23 at approx 9:30am. The Sheriff Mr. Vic Regalado has neglected my medical disability condition of having panic attacks and has falsely and maliciously conspired with his Detention officers and Deputies whom he has hired to operate the jail to injure me. Then Arrest me in violation of State Law (Okla. Stat. tit. 21 Sec. 421 (A)(1)(2) and (5)). I was told I accidentally kicked officer Smith in the arm while she was "behind me" after I panicked from being suffocated by officer Adams. Please see Medical Records I was taking psych meds for Anxiety and panic Attacks before this incident. The Sheriff has neglected my medical condition and has retaliated against me, on approx. 11/26/23 the Sheriff Filed felony assault on a Detention officer charges. The Sheriff has falsely Filed assault charges against me because I am black African American. He has racial profiled against me in violation

of State Law: (Orla. Stat. tit. 22 Sec. 34.3 (A) (B) and (C)) on 3/30/23 I filed a lawsuit against The Sheriff Mr. vic Regalado for Conspiracy and the use of excessive force see case # 23-CV-0126-CVE-CDL. This is a Constitutionally protected activity. The Sheriff Mr. vic Regalado has retaliated against me also by falsely conspiring with his officers, Malicious intentional Harassment and intimidation, and the use of excessive force causing injury. These actions were motivated by the Sheriff simply because I exercised my 1st amendment right to petition the government for redress. The Sheriff has conspired to interfere with my civil rights in violation of 142 U.S.C. 1985 (2)

"If two or more persons conspire for the purpose of impeding, hindering, obstructing or defeating in any manner, the due course of justice in any state or territory with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons to the equal protection of the laws!"

7.

also Federal Law title 42 U.S.C. 1985 (3)

"Depriving persons of Rights or Privileges"
That reads in part as follows:

"in any case of Conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such Conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against anyone or more of the conspirators."

I was exercising my 1st amendment right to petition the government for a redress see case # 23-cv-0126-CVE-COL

The Sheriff Mr. Vic Regalado's actions has caused injury to me. again, The Sheriff's actions are motivated also as a response of me exercising my 1st amendment right to petition the government. The Sheriff has violated my 1st amendment

Rights. The Sheriff of Tulsa County Mr. Vic Regalado is the duly elected and appointed state officer of Tulsa County. He has knowingly and willfully refused to perform his required duty to defend the Constitution of the United States, The Oklahoma Constitution and Laws of this State in violation of State Law: (Okla. Stat. tit. 19 Sec. 91) The Sheriff Mr. Vic Regalado is The Head Manager of the Tulsa County Jail. He has written a Sworn Statement under Oath or affirmation to always operate the Tulsa County Jail in Accordance with the United States Constitution, The Oklahoma Constitution and Laws of this State. He has written this Sworn Statement to the public. Thus, He has willfully violated His Oath. The Sheriff of Tulsa County Mr. Vic Regalado is a Supervisory Municipal Officer. He creates, implements, passes and enforces the policies of the Tulsa County Jail. These policies create Municipal Liability. He has racial profiled against me violating His written policies in violation of State Law. See Okla Stat. tit. 22 Sec. 34.3 (E) appropriate action shall be taken. See (Okla. Stat. tit. 22 Sec. 34.3 (E) Therefore Tulsa County is

liable for damages. The Sheriff Mr. Vic Regalado has also violated Federal Law title 42, U.S.C. 1981 (A) He has interfered with my efforts to sue him in case #23-CV-0126-CVE-CDL He is an individual of the white race who has the same entitlement to sue. I am African American who is a member of the black race, the Sheriff has interfered with my efforts to sue him Depriving me of this same entitlement because I am African American, this is Discrimination and has caused impairment in violation of Federal Law Title 42 U.S.C. 1981 (C) The Sheriff Mr. Vic Regalado has neglected to prevent a known conspiracy with his officers he has "aided in preventing the commission of the same" in violation of Federal Law title 42 U.S.C. 1986 that says in part as follows:

"Every person who, Having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured

10.

or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and Such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action"

" See Hudson v. McMillian, 503 U.S. 1 (1992)
See Hope v. Pelzer, 536 U.S. 730 (2002) "

Federal Law Title 18 U.S.C. 242 makes it a crime for a state official to act willfully and under color of Law to deprive a person of Constitutional rights the Sheriff Mr. Vic Regalado has maintained a practice of neglect. He has acted under color of state law depriving me of my Federal Constitutional rights
see also Bell v. Wolfish, 441 U.S. 520 (1979)
and Griffin v. Breckenridge, 403 U.S. 88, 91 S.Ct. 1790, 29 L.Ed. 2d 338 (1971)

14th Amendment

Pg. 4 of 11 Statement of claim #1

On 11/16/23 The Sheriff Mr. Vic Regalado conspired with Detention officer Adams, Detention officer Smith, and Detention officer Miller to assault me. The Sheriff Mr. Vic Regalado has also conspired with these officers maliciously and intentionally to intimidate and harass me. The Sheriff Mr. Vic Regalado has conspired with these officers also to interfere with my civil rights. The Sheriff has racial profiled against me. The Sheriff Mr. Vic Regalado has conspired with his detention officers to interfere with my 14th amendment right to be free from the use of excessive force. He has influenced his officers to perform these acts. These acts were motivated by racial profiling and simply because I have exercised my right to petition the government for redress in case #23-cv-0120-CVE-CDL. These acts were performed in unit 5-7 at Approt 9:30am at the Tulsa Jail

1st amendment

Pg 4 of 11 Statement of claim #2

on 11/14/23 The Sheriff Mr. Vic Regalado conspired with Detention officer Adams, Detention officer Smith, and Detention officer Miller to assault me, to harass and intimidate me. Mr vic Regalado also has conspired falsely and maliciously to Arrest me. Mr Regalado has racial profiled against me. These acts were motivated by racial profiling and by my attempt to exercise my 1st amendment right to petition the government. See Case #23-CV-0126-CVE-CDL I am a person of ordinary firmness. The Sheriff Mr. vic Regalado's actions have caused impairment, emotional trauma, and distress. These acts were performed in unit 5-7 at approx 9:30 am at the Tulsa Jail

- #3 Federal Law Title 42 U.S.C. 1985 (2) and (3)
- #5 Federal Law Title 42 U.S.C. 1981 (A) and (C)
- #4 Federal Law title 42 U.S.C. 1986

Statement of Claim

On 11/16/23 at approx 9am the Sheriff of Tulsa County Mr. Vic Regalado has willfully acted under color of the State Laws listed in this complaint Depriving me of my federally protected rights His actions are motivated by racial profiling. His actions are also motivated simply because I have exercised my right to petition the government for redress. Mr. Vic Regalado is a member of the white race Caucasian American. I am a member of the black race African American of Dark Color. The Sheriff Mr. Vic Regalado, Detention officer Adams, Smith and Miller are all members of the white race Caucasian American. They all conspired with the Sheriff Mr. Vic Regalado to perform the listed acts in this complaint then at the Sheriff's order these Detention Officers acted in furtherance of the object of this conspiracy injuring me and Depriving me of having and exercising my 1st amendment right to petition the government for redress and also my 14th amendment right to be free from the use of excessive force they all including the Sheriff have deprived me of the "equal protection of the Law" as is enjoyed by white citizens

They have discriminated against me causing impairment in violation of Federal Law Title 42 U.S.C. 1981 (c) These acts were performed at approx. 9:30 am in unit 5-7 at the Tulsa Jail

- D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

See Attachment

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☒ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain)

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

See Attachment

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

See Attachment Statement of claims

C. What date and approximate time did the events giving rise to your claim(s) occur?

ON 11/16/23 at approx 9:30 am

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

The Sheriff Mr. vic Regalado conspired with Detention officers: Adams, Smith, and Miller then ordered them to assault me, injure me, then arrest me depriving me of my Federally protected rights also my leg, arm, and wrists were injured after these acts

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

The Hardware in my left leg was broken. My arms, ankle, and wrists were swollen from the use of excessive force. I was proscribed extra strength Tylenol and Naproxen by the nurse practitioner "Andrew" for 30 days see medical records. I am still in extreme pain from this incident

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

\$100,000,000 million in actual money damages
 \$10,000,000 million in punitive money damages
 I am demanding to be compensated in full the above amounts. I pray that this Honorable Court grant me the full demanded amounts in order to make an example out of the unlawful use of excessive force and discrimination by the Sheriff Mr. vic Regalado and his officers and in order to deter this behavior also to give me relief!!!

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

DL Moss Tulsa County Sheriffs Jail

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

the 14th amendment The 1st amendment

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

- E. If you did file a grievance:

1. Where did you file the grievance?

at D.L. Moss Tulsa County Sheriffs Jail

2. What did you claim in your grievance?

Racial Profiling

The use of excessive force

3. What was the result, if any?

My grievance was denied

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I followed all steps The process is complete

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MARQUICE DONNELL SAVAGE,

Plaintiff,

v.

VIC REGALADO, Sheriff
of Tulsa County, et al.,

Defendants.


Case No. 23-CV-0361-GKF-SH

JUDGMENT OF DISMISSAL

In an Order filed contemporaneously herewith, the Court dismissed without prejudice, Plaintiff Marquice Donnell Savage's Complaint for Violation of Civil Rights filed August 22, 2023 (Dkt. 1), under 28 U.S.C. § 1915(e)(2)(B)(ii) and 28 U.S.C. § 1915A, for failure to state any claims on which relief may be granted.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that this judgment of dismissal is entered against Plaintiff and in favor of Defendants.

DATED this 14th day of December, 2023.



GREGORY K. FRIZZELL
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MARQUICE DONNELL SAVAGE,)	
)	
Plaintiff,)	
)	
v.)	Case No. 23-CV-0361-GKF-SH
)	
VIC REGALADO, Sheriff)	
of Tulsa County, et al.,)	
)	
Defendants.)	

ORDER

This matter is before the Court on Plaintiff Marquice Donnell Savage’s Motion for Leave to Amend or Proceed in Part filed November 9, 2023 (Dkt. 8). For the following reasons, the Court denies the motion and dismisses Savage’s Complaint for Violation of Civil Rights filed August 22, 2023 (“Complaint”) (Dkt. 1), without prejudice, under 28 U.S.C. § 1915(e)(2)(B)(ii) and 28 U.S.C. § 1915A, for failure to state any claims on which relief may be granted.¹

Savage, a pretrial detainee appearing without counsel, requested leave in September 2023 to amend the Complaint to add an additional defendant. Dkt. 5. In an Order filed October 27, 2023, the Court granted Savage leave to add one defendant, dismissed two claims with prejudice, and found that the Complaint was subject to being dismissed as to all remaining claims for failure to state any claims on which relief may be granted. Dkt. 6, at 3-4, 11-24. The Court identified several pleading deficiencies and gave Savage leave to file an amended complaint on or before

¹ To the extent the Complaint could be construed as asserting any cognizable state law claims, the Court declines to exercise supplemental jurisdiction over those claims in the absence of any viable federal claims. *See Bauchman for Bauchman v. W. High School*, 132 F.3d 542, 549 (10th Cir. 1997) (noting that federal court should decline to exercise supplemental jurisdiction over state law claims if all federal claims are dismissed before trial).

November 27, 2023. *Id.* at 11-25. The Court also advised Savage that if he did not file an amended complaint by the deadline established in the prior Order, the Court would dismiss the Complaint and would terminate this civil action for the reasons stated in the Order and without further notice. *Id.* at 25.

To date, Savage has not filed an amended complaint to cure any of the pleading deficiencies this Court identified in its prior Order. Savage did, however, file the instant motion on November 9, 2023, before the deadline to file an amended complaint expired. In the motion, Savage states that he “understand[s] the order” this Court entered on October 27, 2023, and Savage requests “not to amend” but “to proceed in ‘part’ as to claim # 1 for Harassment by the Sheriff Mr. Vic Regalado.” Dkt. 8, at 1. In support of this request, Savage refers to part of a footnote in the Court’s prior Order explaining why Savage failed to state a plausible Fourth Amendment claim in the claim he identified as Claim # 1. *Id.*; see Dkt. 6, at 14 n.7. As the Court understands Savage’s request, Savage would like to amend the Complaint to proceed only with one claim against Sheriff Regalado alleging that Regalado violated his property rights through harassment based on the facts alleged in the Complaint as to Claim # 1. Dkt. 8, at 1. But amending the Complaint to proceed only on a harassment claim would be futile. Savage omits critical language from the footnote of this Court’s prior Order. He specifically omits that portion of the footnote explaining that “the remedy for Savage, if any,” for the perceived interference with his property rights, as alleged in Claim # 1, must be pursued through ‘state tort and common law remedies available to’ him, not through a federal civil action alleging a Fourth Amendment violation and seeking relief under § 1983.” Dkt. # 6, at 14 n.7. If Savage believes that Sheriff Regalado engaged in “calculated harassment unrelated to prison needs” to interfere with Savage’s property rights, Savage may or may not have a state law remedy available, but he does not have a remedy available through § 1983

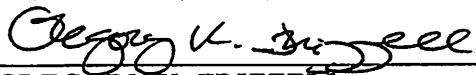
for a claim of harassment because § 1983 provides a remedy only for violations of rights guaranteed by the United States Constitution or otherwise protected by federal law. And, for the reasons more fully explained in this Court's prior Order, Savage does not identify any plausible claims alleging violations of his federally protected rights. *See* Dkt. 6.

Because Savage failed to state any plausible claims for federal relief in the Complaint, failed to file an amended complaint to cure the pleading deficiencies identified in the Court's prior Order, and has expressed his intent "not to amend" the Complaint but instead "to proceed in part" only on a harassment claim that is not based on the alleged violation of any federally protected right, the Court concludes that Savage's Motion for Leave to Amend or Proceed in Part filed November 9, 2023 (Dkt. 8) shall be denied and that the Complaint for Violation of Civil Rights filed August 22, 2023 (Dkt. 1) shall be dismissed, without prejudice, for failure to state any claims on which relief may be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii); 28 U.S.C. § 1915A.

IT IS THEREFORE ORDERED that Savage's Motion for Leave to Amend or Proceed in Part filed November 9, 2023 (Dkt. 8) is **denied**.

IT IS FURTHER ORDERED that Savage's Complaint for Violation of Civil Rights filed August 22, 2023 (Dkt. 1) is **dismissed without prejudice**, for failure to state a claim on which relief may be granted. This is a final order terminating this action.

DATED this 14th day of December, 2023.



GREGORY K. FRIZZELL
UNITED STATES DISTRICT COURT

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

I filed a grievance on 11/29/23

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

I Successfully Completed the grievance process

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

I filed a proper grievance, this issue was still denied. This action was motivated by racial profiling by the grievance coordinator Mr. Turley
(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

He is a white Caucasian American

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☒ Yes

☐ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

The United States District Court 12/14/23

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☒ Yes

☐ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

Marguice D. Savage

Defendant(s)

Vic Reginald Edwards, Shyanne Dobbertin, Alyah Sanchez and Diaz

2. Court (if federal court, name the district; if state court, name the county and State)

The United States District Court Northern District of Oklahoma

3. Docket or index number

23-CV-0126-CVE-CDL

4. Name of Judge assigned to your case

Judge Claire Eagan

5. Approximate date of filing lawsuit

3/30/23

6. Is the case still pending?

☒ Yes

☐ No

If no, give the approximate date of disposition.

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

Still pending

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

Yes

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

☒ Yes☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

Marquice D. Savage

Defendant(s)

Vic Reinaldo Howard, Babarinde, Martin, Mitchell, Dobbertin and Butler

2. Court (if federal court, name the district; if state court, name the county and State)

United States District Court Northern District of Oklahoma

3. Docket or index number

23-cv-361-GKF-SH

4. Name of Judge assigned to your case

Gregory Brizell

5. Approximate date of filing lawsuit

9/18/23

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition

12/14/23

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

dismissed

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

12/19/23

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

Marguice D. Savage
 1003816
 300 N. Denver Ave
 Tulsa OK 74103
 City State Zip Code

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

Marquice D. Savage 1003816
Tulsa Sheriff's Office
300 N. Denver Ave.
Tulsa, OK 74103

RECEIVED

DEC 26 2023

Mark C. McCarth, Clerk
U.S. DISTRICT COURT

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